

IN THE SENATE OF THE UNITED STATES.

JANUARY 23, 1860.—Ordered to be printed.

Mr. BENJAMIN made the following

REPORT.

[To accompany Bill S. 97.]

The Committee on Private Land Claims, to whom was referred the report of the Attorney General of the United States, (Ex. Doc. No. 30,) dated on the 17th February, 1859, submits the following report:

The government of the United States is in possession and claims as owner six lots called "fifty-vara lots," conveyed to the government by quit-claim deed, executed in its favor by the city of San Francisco on the 11th December, 1852. These lots extend from Harrison street to the waters of the harbor, between Front or Main street and Spear street, and the government has erected a marine hospital near the front, on Harrison street, and has inclosed the whole of the six lots for the use of the hospital.

A claim is now made to the two lots Nos. 5 and 6, which are the water-front lots, lying at a distance of about sixty yards from the rear of the hospital building, which claim is based on two deeds executed by the sheriff of the county of San Francisco on the 23d October, 1851, wherein it is stated that, by virtue of an *alias* execution issued from the district court of the fourth judicial district of California, under a judgment rendered in said court, at the suit of Samuel A. Morrison *vs.* The City of San Francisco, the said sheriff had seized and sold, on the said 23d October, 1851, said lot No. 5 to J. G. Ames and S. W. Holladay for the price of one hundred and fifty dollars, and the said lot No. 6 to James Blair for seven hundred and ten dollars; and the heirs and assigns of the vendees under said sheriff's deeds now call on the government to purchase their title to said lots Nos. 5 and 6, or to surrender their possession thereof.

When this claim was referred to your committee, at the first session of the thirty-fifth Congress, it was reported back without any recommendation, but with resolutions intended to elicit from the law officers of the government the information necessary to enable Congress to act with due regard to the rights of the government and the just claims

of the petitioners.—(See *Senate Journal*, 1st Sess. 35th Cong., pp. 295, 296.)

By these resolutions the Attorney General was directed “to make careful examination of the nature and validity of the title conveyed to the United States by the city of San Francisco on the 11th December, 1852, and to report to the Senate—

First. Whether any and what defects exist in said title.

Second. Whether the parties to whom lots five and six in the hospital square of San Francisco were conveyed by sheriff’s deeds in 1851 have valid title to said lots under said conveyances, and are competent now to transfer valid title to the United States.

Third. What is the present value of said lots five and six, and whether the said lots are indispensable for the use of the hospital.

Fourth. Whether there are any outstanding claims of title to any other part of said hospital square.

Fifth. Where the claimants of said lots resided; or whether they had notice of the purchase by the government, and knew of the erection of the hospital, or made objection thereto.

The Attorney General made his response to these questions by his report of the 18th February, 1859; and the information by him communicated is quite unsatisfactory, and insufficient to justify any final action by the government on the claims of the petitioners. The whole matter was referred by that officer to the district attorney of San Francisco—there being nothing in Washington on which the Attorney General could act in person—and the report of the district attorney fails to give information on the points most essential for enabling Congress to devise proper legislation on the subject-matter of the claim.

On the second point of inquiry, “whether the parties claiming said lots five and six, under the sheriff’s deed, have valid title to said lots under said conveyances,” no opinion is given.

On the third point, as to the value of the lots, no opinion is given by the district attorney, but statements are furnished of the valuations made by different persons, exhibiting a range of estimates from \$7,000 to \$30,000 as the value of the two lots; and a communication has been submitted to the committee, from one of the owners, refusing to take less than the highest estimate, viz: \$30,000, or \$15,000 per lot. The collector of San Francisco declares that, in his judgment, they are worth not more than \$3,500 per lot.

It appears further, by answer to another branch of the same question, that the lots are not indispensable for the use of the hospital, although convenient and useful.

Under these circumstances your committee cannot recommend the purchase of the property nor its abandonment to the petitioners. But it is evidently inconsistent with a due regard to justice that the government should retain the property by virtue of its sovereign power, and refuse any relief whatever. The petitioners *may* have a good title, notwithstanding the failure of the district attorney to report his opinion, or to give all the facts necessary to enable the Attorney General to form an opinion for the guidance of Congress. Your committee believe that the only safe and proper course is to authorize the petitioners to

institute a suit against the government, asserting their title to the lots claimed by them; and in the event of their making good their claim by the final judgment of the court, authorizing their entry into possession of said lots, the same not being indispensable for public purposes.

They report a bill for that purpose.

